

Testimony of John Roth
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Background

I want to thank you for the invitation to testify before you today. I come to you as a career Department of Justice prosecutor, having served the Department for over seventeen years, first as a front-line prosecutor in two different U.S. Attorneys' Offices, handling hundreds of investigations relating to narcotics, money laundering, white collar crime, tax, violent crime and immigration offenses, and then as a Section Chief in the Department's Criminal Division, at present as the Chief of the Asset Forfeiture and Money Laundering Section.

Money laundering and its enforcement

Money laundering constitutes a serious threat to our communities, to the integrity of our financial institutions and to our national security. Behind every dollar of dirty money in need of laundering is a trail of victims - victims of violent crimes committed to settle drug wars; victims of terrorism; women and children trafficked into dangerous, degrading labor; and honest businessmen and women driven to bankruptcy by front operations for organized crime.

Most criminals sell drugs, commit securities and bank fraud, murder and extort in order to make money. But once acquired, this money must somehow enter the legitimate financial system to be useful to the criminal. This cash -- a criminal's greatest objective -- is also one of his greatest vulnerabilities.

Drug trafficking gives a good example. Twenty two pounds of heroin will yield a trafficker about a million dollars. Having made his money, the drug dealer must now find a way to do something with it. That street cash would weigh about 256 pounds -- ten times the weight of the drugs sold. For major drug trafficking organizations this effect is multiplied. Drug dealers that sell \$1 billion worth of cocaine must contend with 256,000 pounds of illicit currency. That bulk represents true opportunity for law enforcement.

Our challenges

We have our work cut out for us. Money launderers have what seems like an infinite number of ways to disguise and move money, and there appears to be no limit to their ingenuity. They ship it across our open borders to a friendly corrupt foreign banker, often protected by bank secrecy laws that prevent us from obtaining financial records from overseas; they wire transfer it around the globe, content in knowing that it is securely hidden among the billions of dollars moved internationally every day. They engage in complex trade transactions, such as the Black Market Peso Exchange (BMPE),

aided by merchants worldwide who evade their own country's foreign currency rules to buy cheap dollars. They use one of the thousands of banks or money transmittal outlets in the United States, cleverly structuring their transactions to avoid suspicion or by simply finding someone who will ask no questions. They use false invoices, stored value cards, credit cards, debit cards, internet payment schemes, ATM transfers, insurance schemes, casinos – the list goes on.

Money laundering enforcement may be unique, because it requires the participation of a broad spectrum of government agencies as well as the private sector. It can range from broad, international policy efforts, such as the U.S. Government's participation in the Financial Action Task Force, down to the street level agents conducting surveillance on a money courier in one of our cities. It requires coordination with other countries, because money laundering is a complex, world-wide problem requiring world-wide solutions. It requires extensive contact with financial regulators and private industry – not only the banking industry, but with, for example, those selling insurance and securities, with those who operate money transmitting and check cashing businesses, and dealers in precious metals and stone. We deal with a broad group of law enforcement agencies – DEA, FBI, ICE, IRS and Secret Service, and those who support them, such as Treasury's FinCEN and the U.S. Attorneys' Offices. It also requires coordination among the policy-makers in the relevant agencies, such as Justice, Homeland Security, Treasury, and State.

Coordination among the agencies is usefully divided into two different categories. First, there is the operational or tactical coordination. This coordination is designed to ensure that information is shared so that the agents in the field know what other agencies know and that specific cases or operations are conducted in a way to take advantage of the resources and expertise of all of the federal agencies and avoid dangerous cross-overs of undercover operations. The second kind of coordination concerns strategic or policy coordination. This involves, on a policy level, ensuring that all of the agencies and departments understand the problem in the same way, that they agree on a single strategy, that they devote their resources in way that is consistent with that common strategy, and finally that their internal policies are as consistent as possible. I will address both the operational coordination as well as the strategic coordination.

Operational coordination components

Although the coordination challenges are great, we meet the challenge in a number of ways. The Department of Justice assists in coordination through a number of means. I will name a few of the more formal mechanisms we use. In addition to these programs, coordination among federal law enforcement agencies occurs on nearly a daily basis, through interagency meetings, telephone calls and informal contacts.

- Special Operations Division: This is a multi-agency entity set up to attack the command, control and communications networks of high level narcotics traffickers and drug money launderers. Agents from DEA, FBI, ICE and IRS, aided by Criminal Division lawyers from Main Justice, work together to develop the big picture on large, high-volume narcotics traffickers and money launderers.

The agents assigned to SOD coordinate and support these national and multi-district cases to assist in interagency cooperation. Financial investigations are emphasized as well. SOD has a separate money laundering group, headed up by an ICE supervisor and staffed by agents from all agencies and an attorney from Main Justice, to make sure that the money laundering laws enacted by Congress are utilized in the disruption and dismantling of narcotics organizations.

Operation Double Trouble is but one of the multi-national cases coordinated by SOD. It successfully targeted and disrupted key Colombian drug and money brokers who operated between the United States and Colombia. United States and Colombian law enforcement personnel in a coordinated enforcement effort have arrested over 50 individuals and seized a total of 36 bank accounts from 11 Colombian banks. This operation is also responsible for the seizure of over \$12.8 million, 353 kilograms of cocaine, and 21 kilograms of heroin. This case typifies money laundering investigations in the 21st century: four years in the making, it required the resources of nine U.S. Attorneys' Offices, two sections in the Criminal Division at Main Justice, 12 state or local police departments, three federal investigative agencies, and the cooperation of Colombian law enforcement and prosecutors.

- Organized Crime Drug Enforcement Task Forces (OCDETF): OCDETF is the U.S. Government's primary vehicle for fighting drug crime, and its successes are legion. Its purpose is to marshal the resources of all agencies to investigate and prosecute specific, named criminal drug and money laundering organizations. Each one of these investigations must have a financial component to it – that the agents and the prosecutors understand and attack not only the drug side, but the money side as well. A critical part of this strategy is to ensure that the agents handling these investigations have the proper training to do their jobs.

A key and potentially revolutionary development in the OCDETF program is the Drug Intelligence Fusion Center. The Fusion Center will for the first time create the ability to gather, store, and analyze all-source drug and related financial investigative information, primarily by combining and analyzing data from a broad array of law enforcement agencies through the use of powerful information management tools. As part of the Fusion Center, a financial attack component will bring together our most experienced financial investigators and analysts to prioritize targets and develop plans to attack them.

Conducting financial investigations requires skills and abilities that are often not part of an average federal law enforcement agent's daily fare. As a result, OCDETF, thanks to a specific congressional appropriation, has funded the effort to design a state-of-the-art training program. The training uses a hypothetical case study as its centerpiece, and it occurs in a task force-type setting – agents from ICE, the FBI, the IRS, and DEA sit side-by-side with Assistant U.S. Attorneys to solve problems and learn the techniques necessary to engage in the type of sophisticated financial investigation necessary in the 21st century.

- Undercover review committees: Undercover and sensitive activity involving money laundering investigation requires heightened awareness of the risks, both legal and policy-oriented, in major money laundering investigations. Accordingly, Department of Justice prosecutors sit on all four of the major agencies' undercover review committees – DEA, FBI, ICE and IRS. This further helps keep us informed of the major ongoing investigations and provides an opportunity to assist in the coordination of the agencies involved in money laundering investigations.
- The High Intensity Drug Trafficking Areas (HIDTA) and the High Intensity Money Laundering and Related Financial Criminal Areas (HIFCA): HIFCA and HIDTA are two interagency coordination mechanisms designed to ensure a threat-based, interagency attack on drug trafficking and financial crimes. Through the 28 HIDTA regions, agents from FBI, DEA, IRS and ICE and lawyers from the Department of Justice, and analysts from FinCEN and the National Drug Intelligence Center, as well as relevant state and local law enforcement agencies, are able to plan, coordinate and execute investigations and operations against drug traffickers and money launderers within their region.

The track record of the seven HIFCAs is somewhat uneven. As noted in the recent Government Accounting Office (GAO) assessment of the National Money Laundering Strategy, these unfunded HIFCAs generally did not operate as Congress intended. Many of the problems resulted from the potential participants' reluctance to divert resources from existing programs to fund and staff this effort, and a lack of clarity as to how the HIFCAs would add value to already existing structures and mechanisms.

We are currently discussing with Treasury and Homeland Security the continued viability of the HIFCA concept, with an eye to assessing its value to the money laundering enforcement effort, particularly in light of the more established joint law enforcement operations engaged in money laundering investigations. As *The President's Management Agenda* states: "New programs are frequently created with little review or assessment of the already existing programs to address the same perceived problem. Over time, numerous programs with overlapping missions and competing agendas grow up alongside one another – wasting money and baffling citizens." If the HIFCA concept is retained, we must take great care to determine how it best advances the overall effort, and better define the HIFCAs' relation to other, similar programs.

- Suspicious Activity Report review teams: Suspicious Activity Reports (SAR) are filed by banks and other financial institutions when they have an indication that a customer may be involved in money laundering or other criminal activity. It is a critical component of our anti-money laundering enforcement efforts. The program provides a vital source of intelligence as well as leads regarding criminal activity. Moreover, the SAR requirements are deterrents to would-be money

launderers who might otherwise use the U.S. banking system. They know that to successfully launder money through a bank, they have to “beat the bank” -- somehow disguise their transactions sufficiently so as not to create suspicion. Often, the prospect of trying to do so simply forces the criminal to move to other, less efficient methods to launder his money. Law enforcement uses multiagency SAR review teams to assess the SARs and coordinate investigations resulting from them. There are SAR review teams in over 40 judicial districts. Some are headed by the U.S. Attorney’s Office; some of them are headed by the Internal Revenue Service. In either event, they allow for good, field-level investigative coordination and consultation.

- Financial Crimes Enforcement Network (FinCEN): FinCEN is a valuable component of our efforts to use Bank Secrecy Act information effectively. FinCEN digests and analyzes SAR reports and conducts financial data inquiries for all agencies. Law enforcement especially values FinCEN’s ability to use their artificial intelligence capability to “mine” their data and to develop trends or areas that deserve a closer look. Agents from all the major law enforcement agencies sit at FinCEN and review these reports and law enforcement intelligence products. Where there are crossovers the agents detailed to FinCEN are able to assist in de-confliction and coordination. The Department of Justice assists FinCEN and the investigative agencies in this effort, particularly as it concerns the U.S. Attorneys’ Offices.
- Joint Terrorism Task Forces: Coordination in the fight against terrorism financing occurs on a nearly weekly basis with the operational components, and at the field level through the multi-agency Joint Terrorism Task Forces (JTTFs). The Department agrees with the recently-released GAO study of the effectiveness of the MOA, which concluded that the MOA and its implementation did not hamper DHS’ ongoing ability to investigate financial crimes under its traditional jurisdiction, and that DOJ relies heavily on DHS’ expertise in these areas.

Law enforcement’s tactical coordination is good, although we need to improve in a number of areas. First, most agencies hesitate to share with one another their most sensitive information regarding undercover operations, and some will not pool their investigative files, making coordination in those areas difficult. We are continuing to discuss ways in which such information could be shared. Second, each agency’s guidelines for conducting undercover or sensitive operations are different, reflecting differing agency cultures and assessments of the relative risks of specific techniques. This creates problems for working joint operations. Again, in this area we continue to work together to see if we can find some common ground.

Strategic coordination

Beyond tactical or operational coordination lies the greater challenge – strategic coordination in order to have a single, effective anti-money laundering program. We have challenges ahead in strategic coordination. We first need to have a better understanding of the overall threat so we can meet the problem. Second, we need to develop an overarching, high-level consensus on the priority to be placed on the problem. Lastly, we need to ensure that our resources are aligned with the priorities. In each of these areas we have made some progress, and we are continuing to work on solving these issues in a way that is best for everyone.

National Money Laundering Strategy

The recent Government Accounting Office (GAO) report on the National Money Laundering Strategy concluded that the Strategy has not been as useful as envisioned for guiding the coordination of law enforcement efforts. The Criminal Division has been involved in the coordination of the strategy with our counterparts from the Department of the Treasury, and we worked very hard on trying to get it right. Although I do not dispute the GAO's conclusions, the Strategy did provide some benefit: it gave us a framework for institutionalizing the necessary coordination and a structure for interagency discussions and coordination. We believe that a strategy is a worthwhile and necessary endeavor to coordinate the work of the US government on money laundering issues and we remain committed to its goals. The GAO Report is helpful and should be used to examine how we formulate and use future national strategies.

International coordination

Various nation-states have critical deficiencies in their anti-money laundering regimes; they have not enacted laws that prohibit money laundering; they do not aggressively enforce existing anti-money laundering legislation; or they fail to cooperate internationally to investigate and prosecute money launderers at large. Any weak link affects the entire international financial system.

We pursue an aggressive agenda on the international level to promote the enactment, implementation and enforcement of comprehensive and global anti-money laundering and asset forfeiture laws as well as regulatory measures. The Department of Justice is an integral member of the U.S. Government team in this effort and we work with our sister agencies to ensure a consistent American voice overseas. We are especially pleased to lend the law enforcement perspective, in coordination with Treasury, to the Financial Action Task Force (FATF). The FATF's revised 40 Recommendations and the Special Eight Terrorist Financing Recommendations have become the global standard for an effective anti-money laundering regime and have provided a blueprint for countries to follow in enacting anti-money laundering measures. The Department of Justice is particularly involved in FATF's mutual evaluation process, which has been adopted by other FATF-like regional bodies. This has proven to be effective for motivating nations to improve their anti-money laundering laws and enforcement.

White Collar Crime

Money laundering is not limited to drug crime, of course. Corporate fraudsters will go to great lengths to hide their money and cover their tracks. In an effort to combat and coordinate the attack on this problem, the President's Corporate Fraud Task Force oversees and directs the investigation and prosecution of significant financial crimes involving fraud by corporations and other business organizations. The Task Force coordinates the Department's law enforcement and regulatory efforts in the corporate fraud area with the Securities and Exchange Commission, the Department of the Treasury, the Department of Labor, the Commodities Futures Trading Commission, the Federal Communications Commission, the Federal Energy Regulatory Commission and the United States Postal Inspection Service, each of which is also a Task Force member. The Task Force also develops policy, regulatory and legislative recommendations for the Attorney General and the President to better combat corporate fraud.

Terrorist Financing

In addition to the JTTFs and other operational coordination mechanisms, mentioned previously, the fight against terrorist financing is coordinated at the highest levels within the National Security Council, through the Policy Coordinating Committee (PCC). The PCC includes representation from all relevant agencies and has been in existence, in various forms, since the September 11 attacks.

Looking to the Future

All of the agencies and components involved in anti-money laundering enforcement and policy continue to discuss our strategy. It is a healthy dialogue, informed both by our common goals but also by our different perspectives. As we look to the future, I believe that we will come to a general consensus on the problems and strategies to attack money laundering. From the Department of Justice's perspective, our strategy has three basic parts:

Attack major money laundering organizations

We need to continue to conduct investigations and prosecutions of major money laundering operations. It has been the core of the previous National Money Laundering Strategies and the Department of Justice has never wavered from that mission. Major investigations, particularly on third-party money launderers, raise the costs of laundering money, make it riskier, and give us insight into the new and creative methods by which criminals launder their proceeds. Enforcement actions like Operation Double Trouble, as well as numerous others we have conducted over the last five years, while difficult and time consuming, reap enormous benefits in dismantling large scale criminal organizations, taking their money, and deterring others who would follow in their footsteps.

Look at the gateways to money laundering

As the laundering of money becomes more complicated and difficult, criminals must rely on those with specialized knowledge and expertise to make it happen. Accountants, banks and bankers, company and trust formation agents, attorneys, and others create the artifices through which money can be hidden and they control the access points into the U.S. financial system. These gatekeepers need to understand the consequences of aiding and abetting their criminal customers. We have begun to have some success in this area, particularly with banks and other financial institutions.

Broadway National Bank of New York recently took its place in history as the first financial institution convicted of criminal violations of the Bank Secrecy Act for the failure to file Suspicious Activity Reports. A small bank, known among criminals as the bank that asked no questions, Broadway National Bank was favored by a number of money launderers in New York. Broadway was not an unwitting dupe in an elaborate money laundering scheme. With eyes wide-open, Broadway simply failed to comply with the Bank Secrecy Act. Between 1996 and 1998, Broadway failed to report \$123,000,000 in suspicious cash deposits, which were then transferred to over 100 accounts, including international wire transfers to accounts in Colombia and Panama. More than one-third of the cash deposits came from one customer -- a major money launderer for Colombian drug traffickers.

Similarly, the Department of Justice filed a criminal information in federal court in Puerto Rico charging the largest bank there, Banco Popular de Puerto Rico, with failing to file Suspicious Activity Reports. The bank and the government entered into a deferred prosecution agreement under which Banco Popular waived indictment, agreed to the filing of the Information charging it with a crime, and acknowledged responsibility for failing to file accurate and timely Suspicious Activity Reports when confronted with the knowledge that its accounts were being used for activity consistent with money laundering. Banco Popular consented to a \$21,000,000 forfeiture and a \$20,000,000 concurrent fine.

As with Broadway Bank, Banco Popular's failure was one of basic non-compliance with the Bank Secrecy Act. Faced with massive deposits of currency from customers whose explanations bordered on laughable, Banco Popular failed to follow-up. During one period, one customer alone deposited a monthly average of \$1,400,000 from a business located near the bank which bank employees noticed had few, if any, customers. Banco Popular failed to undertake even the most minimal inquiries. When it filed CTRs, they were often inaccurate. The few SARs that it did file were late and contained false or inaccurate information. The impact of this action is that, by all reports, the bank now complies with the Bank Secrecy Act and is no longer seen as a gateway for criminals to launder their cash.

In addition to banks, other gateways, such as money transmitters, broker-dealers, check cashers, and money order providers, are vulnerable to exploitation by organized money launderers. New regulations and strengthened criminal laws, some established through

the USA PATRIOT Act, provide law enforcement and regulatory agencies with new tools to stop money laundering. We are currently working to coordinate and share evidence on a number of investigations of money remitters across the United States. This umbrella investigation has ensured coordination of efforts and avoided duplicated efforts. We have had some initial success in this area, including successful prosecutions of illegal money transmitting businesses operating in violation of Title 18, U.S. Code, Section 1960; the prosecution of money laundering involving the insurance industry; and the prosecution and conviction of an investment firm CEO who defrauded 1,800 investors of \$146 million.

Take the fight overseas

It is far easier and cheaper to attempt to launder funds in foreign jurisdictions, where in many instances the level of scrutiny concerning the source of cash is considerably lower than in the United States. Criminals in the United States simply pack up the currency in bulk and ship it overseas.

United States law enforcement appropriately focuses on disrupting bulk cash smuggling throughout the entire cycle of money laundering -- the collection, transportation, and exportation -- but the criminal scheme also depends on those friendly foreign banks and businesses to take U.S. currency with no questions asked. The international standard setting and evaluation process in the Financial Action Task Force (FATF) is important, and we are committed with our partners at Treasury and State in that critical effort, as well as the extensive efforts we undertake to provide technical assistance and training to those countries that need it.

The fact remains, however, that vigorous enforcement action is also necessary. We have taken important steps in this direction, for example, in the case of United States v. Speed Joyeros, et al. The Black Market Peso Exchange (BMPE) is the largest drug proceeds money laundering system in the West. Estimates of the value of drug proceeds laundered through this system run into the billions of dollars. A key player in the BMPE, by which drug proceeds on U.S. streets are converted into trade and other goods smuggled or shipped into Colombia, is the Colon Free Zone (CFZ) in Panama. Hundreds of million of drug dollars move to vendors of gold jewelry, electronics and other goods in the CFZ, where the goods are then shipped into Colombia.

Two Panamanian jewelry stores located in the Colon, Panama Free Trade Zone, along with the principals of the businesses, took millions of dollars of drug trafficking proceeds, utilizing the Black Market Peso Exchange, over a several year period. Defendants regularly received payments in drug proceeds from individuals and undercover operations in the United States with whom they had no legitimate business dealings through cash pickups, third party wire transfers, and the acceptance of third party checks and cashier's checks. These businesses and individuals also routinely accepted bulk cash payments smuggled into Panama by individuals in private planes from Colombia.

The defendant companies and one of the principals ultimately pled guilty on money laundering charges and the assets of the businesses were seized and forfeited. The successful prosecution was a result of the hard work by the U.S. agents and prosecutors, as well as the Panamanian authorities, and the creative use of the broad reach of the United States money laundering and forfeiture laws. This action, the first of its kind, dramatically demonstrated for other Free Trade Zone merchants the risk of accepting such third party payments and large volumes of cash. Continued pressure on the merchants in the Free Trade Zone will help strike a serious blow against the Black Market Peso Exchange.

We will continue to take the fight overseas, not only against the BMPE dealers, but against corrupt members of the financial services industry, including banks and money exchange houses.

In sum, we are making significant strides against sophisticated and difficult adversaries. We believe that our strategy is sound and our techniques effective. Recognizing that there have been problems along the way, and problems remain, we have nevertheless accomplished much and will continue to make important strides in tackling this significant and complex problem.

I will be happy to answer any questions you may have.